

Amended MDR Tracking Number: M5-04-3767-01 (**Previously M5-04-2295-01**)

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on March 23, 2004.

This AMENDED FINDINGS AND DECISION supersedes all previous Decisions rendered in this Medical Payment Dispute involving the above requestor and respondent.

The Medical Review Division's Decision of 06-10-04 was appealed and subsequently withdrawn by the Medical Review Division applicable to a Notice of Withdrawal of 07-02-04. An Order was rendered in favor of the Respondent. The Requestor appealed the Order to an Administrative Hearing because the IRO addressed both the work hardening and work conditioning programs, except the only service in dispute is the work hardening program.

### **I. DISPUTE**

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the work hardening initial 2 hour and the work hardening each additional hour were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

### **II. AMENDED DECISION**

Based on review of the disputed issues within the request, the Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the work hardening initial 2 hour and the work hardening each additional hour were not found to be medically necessary, reimbursement for dates of service from 04-11-03 to 04-29-03 is denied and the Division declines to issue an Order in this dispute.

The above Amended Findings and Decision are hereby issued this 10<sup>th</sup> day of August 2004.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

PR/pr

Enclosure: IRO decision

NOTICE OF INDEPENDENT REVIEW DECISION

**Revised Notice 06/25/04**  
**Note: Attachment Added**

May 19, 2004

**Amended Letter 07/13/04**

Program Administrator  
Medical Review Division  
Texas Workers Compensation Commission  
7551 Metro Center Drive, Suite 100, MS 48  
Austin, TX 78744-1609

RE: Injured Worker:  
MDR Tracking #: M5-04-3767-01  
IRO Certificate #: IRO4326

The Texas Medical Foundation (TMF) has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to TMF for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

TMF has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in Chiropractic Medicine. TMF's health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to TMF for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

**Clinical History**

This patient sustained a work-related injury on \_\_\_\_ when working as housekeeper. She was injured over the right upper quarter due to performing repetitive cleaning, vacuuming, and dusting while at work. Conservative treatment was initiated on 06/27/02 and therapeutics rendered included Chiropractic manipulation, physical therapy applications, and passive modalities. A consultation on 06/27/02 revealed a diagnosis of a repetitive motion injury and tenosynovitis of the right wrist/hand and conservative therapeutics with medications was recommended. An MRI of the right wrist performed on 07/29/02 revealed joint effusion in the hamate/capitate joint. An MRI of the right elbow performed on 07/29/02 revealed joint effusion within the radial head/ulnar joint and olecranon/distal humeral joint. An MRI of the right shoulder performed on 07/29/02 revealed minimal impingement of the

supraspinatus muscle. Electrodiagnostic study of the upper quarter performed on 08/08/02 revealed an unremarkable study. An evaluation performed on 08/22/02 revealed anterior impingement of the right shoulder, right lateral epicondylitis, and possible carpal tunnel syndrome and surgical recommendations were made around 09/12/02. The patient underwent an osteotomy of the right lateral epicondyle, synovectomy of the radial/ulnar joint, and detachment of the extensor tendon on 10/15/02. The patient underwent a right shoulder acromioplasty and bursectomy on 01/02/03. Functional Capacity Evaluation (FCE) performed on 03/04/03 revealed deficits in the patient's functional abilities and placed her at a sedentary physical demands classification (PDC). FCE on 04/09/03 revealed nearly identical deficits of function noted in the 03/04/03 evaluation. Designed Doctor Examination (DDE) on 04/28/03 revealed that the patient was at Maximum Medical Improvement (MMI) and that there was no existing impairment of functional abilities.

#### Requested Service(s)

Work hardening initial 2 hour; work hardening each additional hour from 04/11/03 through 04/29/03

#### Decision

It is determined that the work hardening initial 2 hour, work hardening each additional hour from 04/11/03 through 04/29/03 was not medically necessary to treat this patient's condition.

#### Rationale/Basis for Decision

The clinical rational of the provider, to implement upper level therapeutics like work hardening beyond 04/09/03, is not substantiated in the medical record documentation. After comparing the FCE performed on 03/04/03 with the evaluation performed on 04/09/03, no amount of objective improvement in the patient's functional abilities establish efficacy for any trial of work hardening therapeutics to continue beyond the 04/09/03 FCE. Given the multiple surgical applications and time that the patient was away from the workforce, a transition to upper level therapeutics like work hardening may have been appropriate following the FCE on 03/04/03 that revealed deficits in functional abilities over the dominant upper quarter. The DDE dated 04/28/03 revealed some inconsistencies between the patient's pathology and subjective pain complaints. The physician placed the patient at MMI on 04/09/03 and found no identifiable deficit function over the right upper quarter as a result of the \_\_\_\_ work-related event. The patient's progression within upper level therapeutics like work hardening should have ceased after the FCE on 04/09/03. Therefore, the work hardening initial 2 hour, work hardening each additional hour from 04/11/03 through 04/29/03 was not medically necessary to treat this patient's condition.

#### References:

- *Overview of implementation of outcome assessment case management in the clinical practice.* Washington State Chiropractic Association; 2001.54p.
- Schonstein E, et al. *Work conditioning, work hardening and functional restoration for workers with back and neck pain.* Cochran Database Syst Rev. 2003;(1):CD001822.

- Seitz WH Jr, et al. *Arthroscopy update #3. Chronic impingement syndrome. The role of ultrasonography and arthroscopic anterior acromioplasty.* Orthop Rev. 1989 Mar;18(3):364-75.
- Van Eerd D, et al. *Classification systems for upper-limb musculoskeletal disorders in workers: a review of the literature.* J Clin Epidemiol, 2003 Oct;56(10):925-36

Sincerely,

A handwritten signature in black ink, appearing to read "Gordon B. Strom, Jr.", with a stylized, cursive script.

Gordon B. Strom, Jr., MD  
Director of Medical Assessment

GBS:dm